



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,091	03/13/2000	Jennie Ching	1500P/BC999065	6651

7590 01/09/2006
Sawyer Law Group
P O Box 51418
Palo Alto, CA 94303

EXAMINER

KOENIG, ANDREW Y

ART UNIT PAPER NUMBER

2611

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/524,091	Applicant(s) CHING ET AL.	
	Examiner Andrew Y. Koenig	Art Unit 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-20.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.


CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: The applicant's arguments filed 16 December 2005 are not persuasive.

The applicant argues that neither McCoy nor Gordon teach the limitation of "a central site system utilizing a plurality of designated control parameters as a tunable limits including storage parameters for controlling distribution of digital media data." The examiner disagrees; McCoy teaches a central site system utilizing a plurality of designated control parameters as tunable limits, including uplink parameters, schedule parameters for controlling distribution of digital media data (col. 4, ll. 9-35, col. 4, ll. 44-51, col. 9, ll. 24-35, col. 10, ll. 25-60, and col. 12, ll. 19-30). Accordingly, McCoy teaches a plurality of designated control parameters as tunable limits for controlling distribution of digital media data. McCoy is silent on teaching a storage parameters, which is taught by Gordon (col. 5, ll. 45-61).

The applicant further argues that storage space is not a designated control parameter - e.g. the parameter is not designated (selected, assigned, or pre-determined) by a user or a computer system. The examiner disagrees because Gordon teaches the limitation. Gordon teaches a resource manager (102) for receiving requests from a variety of sources, such as a request from a user or manager to transfer an asset (col. 5, ll. 44-61), which equates to a designated (e.g. selected, assigned, or pre-determined) control parameter including storage parameters. The examiner notes that a designated control parameter does not preclude the system from computer information as a result of the storage parameter. In other words, a storage parameter, given the broadest reasonable interpretation, could be a request for available storage space. In other words a designated parameter does not preclude the interpretation that the parameter is used for processing.

The examiner notes that whereas the applicant's invention designates storage parameters through a graphical user interface (GUI), a GUI is not recited in the claims.

The applicant argues that McCoy teaches away from a central facility utilizing designated storage parameters with respect to received data transmissions, in that "one function performed by the downlink computer system 114 is to select only relevant and necessary portions of transmitted data and to discard the rest" (col. 5, ll. 18-21). The applicant alleges this to be a primary function, however the McCoy does not explicitly recite this feature as a primary feature, but merely one function. There is nothing within the disclosure that explicitly teaches away from the combination as alleged by the applicant. Consequently, the examiner is not persuaded by the applicant's argument that McCoy teaches away from the combination.